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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,047	12/31/2001	Lee Friedman	36968/258392 (BS01155)	2287
23552 7590 05/17/2007 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER REILLY, SEAN M	
			ART UNIT 2153	PAPER NUMBER
			MAIL DATE 05/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/039,047	Applicant(s) FRIEDMAN, LEE	
	Examiner Sean Reilly	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6, 7, 9, 10, 13, 19, 36, 37 and 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-7, 9-10, 13, 19, 36-37, and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to Applicant's amendment and request for reconsideration filed on February 28, 2007. Claims 6-7, 9-10, 13, 19, 36-37, and 39 are presented for further examination. All independent claims have been amended. Applicant's arguments regarding the newly added limitations are moot in view of the new grounds of rejection set forth below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 6, 7, 9, 10, 36, 37, and 39, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent Number 6,693,912) and Bahadiroglu (U.S. Patent Application Publication 2002/0186660; hereinafter Bahadiroglu) and Applicant's Admitted Prior Art.

With regard to claims 6, 13, and 36, Wang disclosed a method executed by multiple dispersed devices (Figure 1, gateways to between to the two end users) for adapting data received from a remote sending device according to quality of service parameters associated with a plurality of network segments (e.g. each segment between the gateways in figure 1) that are downstream from the dispersed devices, comprising:

- receiving at the disbursed devices instructions, wherein the instructions instruct the disbursed devices to adapt the data (e.g. each network 2A, 3A, 3B, and 2B is configured with their own QoS parameters that are used to adapt the data as it flows from network to network, see inter alia Col 3, lines 1-17 – “it will be assumed that each of these four network has a different QoS system,” Col 3, lines 56-61, Col 4, lines 5-14, and Col 5, lines 32-38 - “each network can introduce new QoS technology”);
- receiving the data from the remote sending device (e.g. the end nodes can send data to each other, Figure 1 and Col 4, lines 5-14);
- adapting the data to conform to the quality of service parameters associated with each network segment downstream from the one of the dispersed devices therein adapting the data at the dispersed devices rather than adapting the data at the remote sending device wherein the dispersed devices are located between the remote sending device and the plurality of network segments (adapting to data to the QoS specifications of each network as it pass through each network, such as “traffic parameters and other QoS parameters,” (again refer to inter alia Col 3, lines 1-17, lines 56-61, Col 4, lines 5-14, and Col 5, lines 32-38),
- transmitting the adapted data along each network segment to one of a plurality of segment endpoints where the segment endpoints (e.g. gateways and end user clients) comprise at least one recipient client and at least one sub-segment dispersed device that further adapts the data previously adapted to conform the data according to quality of service parameters associated with a network sub-segment adjacent and

downstream from the at least one of the plurality of segment endpoints comprising the sub-segment dispersed device; (again the data is further adapted as it pass through each network).

Wang failed to specifically recite requesting new programming for adapting the data upon detecting changes in the quality of service parameters for each network segment. Nonetheless it was widely known in the art at the time of the invention to dynamically adapt data upon detecting changes in the quality of service parameters for each network segment, as evidenced by Bahadiroglu. In an analogous art, Bahadiroglu disclosed a system for transmitting data between sending and receiving nodes (abstract). Bahadiroglu's system requests new programming for adapting the data upon detecting changes in the quality of service parameters for each network segment (i.e. adjusting the packet size and inter-packet interval in real time according to bandwidth restrictions of the network segment such as latency, jitter and traffic conditions ¶ 71). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the packet sizing functionality disclosed by Bahadiroglu, within Wang's system, in order to ensure the available bandwidth is maximized (Bahadiroglu ¶71).

2. With regard to claims 7 and 37, Bahadiroglu disclosed adjusting packet size according to bandwidth restrictions of each network segment (latency, jitter and traffic conditions) (¶ 70).
3. With regard to claims 9, 19, 30, and 39, Wang disclosed adapting the data further comprises replicating the data (the content is never changed, just the form of the content changes).

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4. With regard to claims 10 and 40, Examiner takes official notice that it was widely known in the art at the time of Applicant's invention to transmit the parameters of networking devices on a network to the administrator of that network so that the administrator can monitor, repair, and configure the network as needed. Thus, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to transmit the quality of service parameters from each network device to a network administrator so that the administrator can monitor, repair, and configure the network as needed.

Conclusion

5. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 May 7, 2007


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